

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: AMENDMENT TO 199 IAC 9.1(3)"f," LAND RESTORATION RULES	DOCKET NO. RMU-01-6
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ORDER ADOPTING AMENDMENT

(Issued August 28, 2001)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 479.29, and 479B.20 (2001), the Utilities Board (Board) on July 5, 2001, issued an order in Docket No. RMU-01-6, In re: Amendment to 199 IAC 9.1(3)"f," Land Restoration Rules, "Order Commencing Rule Making," to consider an amendment to 199 IAC 9.1(3)"f." The "Notice of Intended Action" was published in IAB Vol. XXIV, No. 2 (7/25/01) p. 120, as ARC 0832B. The amendment corrects the definition of "pipeline construction."

The "Adopted and Filed" notice which is attached to this order and incorporated herein by reference contains an explanation of the procedural history of the current rule making, a discussion of the comments, and the modifications to the rule making made and adopted by the Board.

IT IS THEREFORE ORDERED:

1. A rule making identified as Docket No. RMU-01-6 is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Mark O. Lambert

Dated at Des Moines, Iowa, this 28th day of August, 2001.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 479.29, 479A.14 and 479B.20 (2001), the Utilities Board (Board) gives notice that on August 28, 2001, the Board issued an order in Docket No. RMU-01-6, In re: Amendment to 199 IAC 9.1(3)"f," Land Restoration Rules, "Order Adopting Amendment." The amendment to 199 IAC 9.1(3)"f" corrects the definition of "pipeline construction." The Notice of Intended Action was published in IAB Vol. XXIV, No. 2 (7/25/01) p.120, as ARC 0832B.

On July 5, 2001, the Board issued an order commencing a rule making to correct the definition of "pipeline construction" in 199 IAC Chapter 9, "restoration of agricultural lands during and after pipeline construction." The current definition is found at 199 IAC 9.1(3)"f" and does not reflect the decision of the Board as discussed in the preamble to the Adopted and Filed notice, ARC 0436B, published on February 7, 2001.

In the preamble the Board indicated that the definition of "pipeline construction" should be revised to read in pertinent part "a substantial disturbance to agricultural land associated with the installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency." The paragraph as adopted did not contain the language "a substantial disturbance to agricultural land associated with." This was a drafting oversight and the amendment was proposed to properly reflect the Board's decision concerning the definition of "pipeline construction."

Written comments in this rulemaking were to be filed on or before August 14, 2001. The only comments filed were by the Consumer Advocate Division of the Department of Justice (Consumer Advocate). In the comments Consumer Advocate states that it supports the amendment.

The Board finds that the amendment should be adopted as proposed. It corrects a drafting error and there are no objections. The Board adopts 199 IAC 9.1(3)"f" as set out below.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 479.29, 479A.14, and 479B.20.

The amendment will become effective October 24, 2001.

The following amendment is adopted.

9.1(3)"f" "Pipeline construction" means a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

August 28, 2001

/s/ Allan T. Thoms

Allan T. Thoms
Chairperson